

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Felton Mackie**
Docket No. **296059**
L.C. No. **09-017800-01-FH**

Christopher M. Murray, Judge, acting under MCR 7.211(E)(2), orders:

The prosecution's confession of error under MCR 7.211(C)(7) is accepted, defendant's sentence is REVERSED, and the matter is REMANDED for resentencing. It was error requiring resentencing for the trial court to sentence defendant based upon guidelines calculated for a habitual offender, fourth offense when the only timely notice given defendant was that he faced a charge of habitual offender, second offense. *People v Ellis*, 224 Mich App 752; 569 NW2d 917 (1997) and *People v Francisco*, 474 Mich 82; 711 NW2d 44 (2006).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 10 2010

Date

Sandra Schultz Mengel
Chief Clerk